



CURBside News

NEWS FROM THE WATCHDOG FOR RESIDENTIAL AND SMALL COMMERCIAL CONSUMERS OF UTILITIES DEC. 2014

Commission rejects Atmos' PGA incentive proposal

In an order issued on October 14, 2014, the Commission agreed with CURB and rejected an application by Atmos Energy that would have fundamentally changed how customers are billed for natural gas cost on their bills, and would have committed customers to pay for uneconomic pipeline projects proposed by Atmos and the KCC staff.

On November 15, 2013, Atmos filed an application to change the way it charges customers for natural gas and upstream pipeline costs in its Purchased Gas Adjustment (PGA). Historically, the Commission has allowed natural gas utilities like Atmos to pass the cost of natural gas and upstream pipeline transmission directly to customers through a monthly PGA surcharge. The tradeoff is that the utilities don't make any profit in the PGA.

The Commission did create one limited exception that allowed utilities to book some profit in the PGA. To assure that they can get natural gas from the gas fields to where it is

needed in the winter, utilities like Atmos buy "firm" capacity on interstate pipelines. In the summer, that firm capacity is mostly unused, even though the utilities are still paying for the capacity. In the mid-1990s, the Federal Energy Regulatory Commission began allowing utilities to sell or "release" this capacity for others to use in the summer. This allowed utilities to gain a few extra dollars during the summer while retaining the firm capacity necessary for serving customers in the winter.

In a unique 1995 ruling—made over the objections of CURB and the KCC Staff, by the way—the KCC allowed utilities to keep 50% of any revenue received from selling (releasing) capacity. The Commission reasoned that customers were paying for the firm transmission, so any revenue that customers received from capacity releases was better than nothing. And allowing the utilities to participate in the profit would create an incentive to maximize the revenues.

In this docket, Atmos used that 19-year old capacity release ruling as support for its proposal to implement a full incentive PGA. Atmos would establish benchmark prices

based on its current costs of natural gas and upstream capacity. Then, if Atmos could negotiate purchases of natural gas and upstream capacity at prices that are lower than the benchmarks, Atmos proposed to keep 50% of the difference between the benchmarks and the new lower prices.

Then, as the case progressed, Atmos met with the KCC staff and reached agreement on a new plan. Instead of sharing 50% of the revenue with customers, under the new plan Atmos would keep 100% of the difference between the benchmarks and the prices actually paid by Atmos in the market. Additionally, Atmos agreed to build several pipeline projects that were never built because they would cost more than the revenues Atmos would get back from the projects. Once these pipeline projects were finished, Atmos would put the cost of the project into customer rates. Since revenues from the projects would be less than the cost, customer rates would have to increase to pay the difference.

CURB objected to the proposal for several reasons. First, CURB argued that Atmos has an ongoing obligation to seek out the most economical prices for natural gas and upstream

capacity. At any time that Atmos has an opportunity to purchase gas or capacity for less than it is currently paying, then it should do so and pass the savings along to customers. But Atmos suggested that it would not pursue opportunities to save money without the opportunity to make extra profit. Fortunately, the Commission agreed with CURB on this point.

CURB also argued that it is a bad policy to turn the PGA into a profit center, which would overturn 37 years of PGA policy, which calls for passing through to customers only the true costs of natural gas and pipeline capacity. While the Commission changed one small provision in the PGA in 1995 to allow utilities a share of the savings on capacity releases, the rest of the PGA is transparent, based on actual costs, and does not include profits.

Further, back in 1995 when the Commission considered allowing the utilities to share in capacity release savings, this single change to the PGA was considered such a radical departure in policy that the Commission spent a full year taking public comment on the question. In the current Atmos case, which would fundamentally change the entire PGA from a pass-through mechanism to a profit center, the Commission had taken no public comment at all.

Finally, CURB argued that Atmos's proposal would be a lose-lose proposition for customers. Under Atmos's amended proposal, customers would never pay lower than the

benchmark price and would never enjoy savings from lower gas prices because Atmos would keep all of the savings. On top of that, the money that Atmos collected from savings would not be applied to offset the cost of constructing the pipeline projects that were included in the amended proposal. Instead, customers would likely end up paying higher rates because the cost to construct this particular set of projects is expected to exceed the revenues they would bring in. Frankly, their unprofitability is the reason why these projects were never built in the first place.

The Commission rejected the Atmos proposal in its entirety, which is a big win for CURB and the customers we represent. Atmos filed a petition for reconsideration, asking the Commission for further guidance. The Commission granted Atmos's petition, but did not offer any additional guidance at this time.

Ultimately, it may be time to reconsider some of the policies governing the purchasing practices and cost recovery mechanisms used by the natural gas utilities. But the discussion should be robust and inclusive, involving all of the utilities and their customers as well as the public generally. CURB believes that major policy changes, like those proposed in the Atmos case, should not be made in a docket that applies only to one company and where no public input was solicited or received.

KCC Docket No. 14-ATMG-230-TAR

Black Hills rate case settled on favorable terms for customers

Last April, Black Hills Energy filed an application to increase its base rates by \$9.51 million, which included \$4.47 million of Gas Safety and Reliability Surcharge (GSRS) and ad valorem (property) tax revenues that are already on customer bills. Adjusting for the GSRS and ad valorem revenues, Black Hills was seeking about \$5.04 million in new revenues through the rate case.

CURB, the KCC Staff and other intervenors filed direct testimony in Black Hills' rate case on September 12, 2014.

Witnesses for the KCC Staff and CURB were closely aligned in their opinions that Black Hills' requested increase and its requested return on equity were both too high, and were also closely aligned on numerous accounting adjustments and policy issues in the case.

CURB recommended a base rate increase of \$3,613,683. However, this amount included \$4.47 million in GSRS and ad valorem revenues that were already on customers' bills. So, under CURB's recommendation, customers would have actually seen a net decrease in bills of \$860,000.

Staff's recommended increase, including the rebased GSRS and ad valorem revenues, was \$4,691,139, or a net increase to customers of about \$300,000.

CURB's witness Dr. Randy Woolridge recommended that the KCC limit shareholder profit—the return on equity—to 8.75%. Staff's witness Adam Gatewood recommended a return on equity of 9%.

CURB and Staff also agreed that the company's proposal for a rider designed to recover the costs of various projects should be rejected, and agreed on the appropriate accounting treatment of the company's expenses related to pensions, retirements, and post-retirement benefits, as well as the amount that should be included in rates.

Even their rate designs weren't far apart. Staff recommended a customer charge for residential customers of \$17.50, and a customer charge for small commercial sales customers of \$28.13. CURB recommended customer charges of \$16.00 for residential and \$22.75 for small commercial sales. Most of the difference was attributable to the fact that Staff had an overall higher revenue recommendation than CURB, and Staff allowed more of the increase to go to small commercial sales than CURB did. CURB, which represents both classes, proposed rates that shared the increase equitably between both classes. In spite of the differences in the recommendations of Staff and CURB, their recommendations were far below the company's proposed increases in both charges.

The close alignment in Staff's and CURB's positions prompted settlement talks with

the company. Although Staff's recommended rate increase was about a million dollars higher than CURB's, due to relatively minor differences in some of the witnesses' recommendations, the overall similarities in their conclusions indicated that the evidence strongly supported a much smaller increase than Black Hills had requested.

After Black Hills' rebuttal testimony was filed in October, settlement talks began. The outcome was an agreement to increase rates by \$5.23 million. Excluding the rebased GSRS and ad valorem tax revenues, the net increase was only \$764,245, compared to the \$5.04 million of new revenues Black Hills requested in its application. Further, Black Hills agreed to withdraw its request for the Future Track program, which was a tracker for the costs of training employees to replace retirees. The company also withdrew its requests for a Bypass Revenue Rider and an Accelerated Pipeline Rehabilitation Rider. The parties agreed to allow Black Hills to implement a tracker for pension and post-retirement costs.

The agreed-upon rate design resulted in a residential customer charge of \$17.25 and a per-therm rate of \$00.16833. Small business customers will pay the same per-therm rate as residential customers, and will pay a monthly customer charge of \$26.45. Since the GSRS and ad valorem tax revenues were already on customer bills, CURB estimates the average residential customers will see an increase

of about \$3.00 per year as a result of the settlement.

The Commission approved the settlement on December 16, 2014.

KCC Docket No. 14-BHCG-502-RTS

Victory for consumers: Atmos profit set at 9.1%, denied regulatory asset for projects

On September 4, 2014, the Kansas Corporation Commission issued its order on Atmos Energy's request for a rate increase of \$7 million with a return on equity (shareholder profit) of 10.53%. The Commission approved a return on equity for Atmos of 9.1%, which will result in a base rate increase of just under \$4.2 million.

The Commission also denied Atmos's request to establish a regulatory asset to ensure recovery of all costs related to projects to replace aging infrastructure for improved safety and reliability.

In addition, the order approved the partial settlement agreement filed by the parties, which covered most of the other issues in the rate case.

CURB was quite pleased with the Commission's order, having strongly opposed the regulatory asset proposal, and having offered evidence that a return on equity of 8.5% is more reasonable than the company's proposed 10.53%.

David Springe, Consumer Counsel for CURB, said that this decision, along with some of the Commission's other recent actions, are clear signs that the current Commission is interested in proactively addressing some of the concerns customers have about rising utility rates.

"The Commission awarded a return that was more in line with the recommendations of CURB and the Commission's own Staff, and said 'No' to providing iron-clad guarantees of cost recovery for capital projects," Springe said.

On September 18, Atmos filed a petition for reconsideration objecting that the Commission's decision to limit the utility to a 9.1% return on equity was arbitrary and capricious and unconstitutionally low. On October 16, the Commission denied the petition. Atmos did not file an appeal.

The approved rate design includes a monthly customer charge for residential customers of \$18.19. Small commercial customers will pay a \$40.88 customer charge. Both residential and small commercial customers will pay a commodity charge of \$00.14860/ccf.

KCC protests high profits on transmission projects

The Kansas Corporation Commission has filed a protest with the Federal Energy Regulatory Commission (FERC), complaining that FERC has granted excessive profits to Westar Energy for transmission projects built in Kansas. FERC currently allows an 11.3% profit level for Westar's projects, a return on equity set back in 2008 as a part of a plan to enhance returns to encourage utilities to build new transmission lines to improve the reliability and efficiency of the national grids.

By contrast, in the state's most recent large electric utility rate cases, the KCC set Westar's return on equity on non-transmission capital assets at 10%, and Kansas City Power and Light's at 9.5%. And those returns will be reviewed again in 2015 in new rate case proceedings for both companies.

The Southwest Power Pool, which now operates the transmission grid in this region, charges the utilities for their use of the grid and in turn, pays utilities for the use of their transmission facilities by other utilities in the operation of the grid. The SPP charges are approved by FERC. Utilities pass through these costs to customers via the transmission delivery charge (TDC) on their bills (like Westar does) or via inclusion in base rates (like KCPL does). (Note: KCPL will be seeking to implement a TDC

in its new rate case filed at the beginning of 2015.)

Under Kansas law, the FERC-approved transmission rates that utilities pay to SPP must be passed through to Kansas customers without adjustment by the KCC. Even if the KCC believes the transmission rates included in KCC-regulated rates are unreasonable, the Commission has no authority to adjust those rates to a reasonable level.

So the KCC took its complaint to FERC, arguing that evidence compiled by its financial expert shows that Westar customers may be paying as much as \$15.8 million per year in excessive profits on transmission projects that are included in the SPP transmission rates that Westar passes through to its customers in the Transmission Delivery Charge. The KCC also requested that FERC "act expeditiously to establish a just and reasonable ROE" for Westar's transmission rates "because prompt action will protect ratepayers who are now paying unjust and unreasonable transmission rates."

This complaint is indicative of the KCC's renewed awareness of the impacts on customers of climbing utility rates. A recent KCC ruling on the return on equity for a natural gas utility—9.1%—indicates that the KCC is serious about adjusting equity returns to reflect not only the lower costs of borrowing capital but also the more subdued expectations of investors in the current market.

We don't know whether the KCC complaint will be suc-

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cessful, but the suit may serve to call attention to how much money these out-of-date returns are costing electric customers. We hope that FERC takes the KCC's concerns seriously and adjusts returns to reflect today's economy.

To read the complaint in its entirety on the FERC's website, see:

http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20140820-5184.

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is brought to you by
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**Westar seeks new
energy efficiency
programs, lost
revenue**

On October 28, 2014, Westar filed an application requesting authority to spend approximately \$5 million per year for the next three years on three new energy efficiency programs. Westar is also asking for recovery of any reduction in revenues resulting from customers who actually use the energy efficiency programs and consume less energy. If approved, all program costs and lost revenue will be collected annually in Westar's Energy Efficiency Rider (EER) surcharge on customer bills.

According to the application, Westar will offer a Small Business Lighting (SBL) program. The SBL program provides small businesses a free energy audit plus \$500 in efficient lighting products. If the small business wants to engage in additional energy efficiency opportunities suggested by the audit, Westar (Westar's rate-payers) will pay for 60% of the cost of additional energy efficiency measures; zero interest financing will be available to the small business for the balance of the cost of the installation. The program is aimed at groceries, convenience stores, restaurants and small manufacturers. Westar expects the direct cost of the program will be \$5.9 million over the next three years.

Westar will also offer residential customers two levels of

in-home energy audits. A Level 1 audit, at a cost of \$50, will consist of a walk-through by an efficiency expert and comes with \$50 in energy efficiency measures. A level 2 audit, at a cost of \$198, will consist of a comprehensive home audit and comes with a blower-door test to identify leaks in the home's envelope. Westar expects the direct cost of the residential audit program will be \$531,000 over the next three years.

Finally, Westar will provide funding to the Kansas Housing Resources Corporation (KHRC) a state agency that runs the Kansas Weatherization Program. KHRC will use the funding for targeted energy efficiency projects aimed at low income customers. Westar expects the direct cost of the program will be \$9 million over the next three years.

As an incentive for offering these programs, Westar is asking the Commission to allow recovery of any non-fuel revenues that Westar will lose as a result of customers using the energy efficiency programs to reduce their energy usage. The Commission allowed a lost revenue incentive in a prior energy efficiency loan program that Westar offered, but a more recent order from the Commission suggests that it may not approve recovery of lost revenue in the future. Westar offered no estimate of the amount of revenue it expects to lose annually.

Westar recently reduced its EER surcharge by \$5 million per year as a result of reduced spending on Westar's existing

WattSaver program. (For information on this reduction, see KCC Docket No. 15-WSEE-021-TAR.) Westar claims that this recent \$5 million reduction in the surcharge will offset any anticipated increase in the EER from the new programs, should the Commission approve this proposal.

The Commission is expected to issue an order by late June 2015.

KCC Docket No. 15-WSEE-181-TAR

KCC fines Howison Heights \$1000; orders fine to be paid to customers

On December 18, 2014, the KCC imposed a \$1000 fine on Howison Heights, Inc. for failure to take actions previously ordered by the Commission. The Commission ordered Howison, a small rural Saline County water utility, to refund the fine to its 62 customers rather than pay it to the Commission.

The order was responding to the Commission Staff's request that the KCC enforce previous orders that the utility has virtually ignored.

As noted in previous CURB-sides, Howison Heights is the poster child of poorly-run utilities. The water quality is inconsistent, and a little over a year ago, the customers endured several weeks under a boil-water advisory because of wildly-fluctuating chlorine levels. The water, even when appropriately chlorinated, is full of

sediment and minerals that turn home water filters a deep earthy red. Many customers have complained that water pressure isn't consistent, and that customer billing is inconsistent, as well.

Further, the utility's books and finances were in such bad shape that it has been impossible for regulatory audits to determine if loans secured with the utility's assets were actually spent on the utility and whether customers were harmed by the owner's intermingling of his own finances with that of the utility. Missing records have compounded the problem. Sales taxes and state water fees collected from customers haven't been paid to the taxing entities.

That's not all. The banks that made the loans have filed to foreclose on the utility's assets, actions that were stayed for several months when Howison filed for bankruptcy. However, Howison was dismissed from bankruptcy court this summer for failure to comply with the court's reporting requirements, so the banks are now free to pursue their suits.

As a result of the findings of the KCC Staff and CURB that this utility needed to clean up its act, so to speak, in June 2014 the Commission ordered Howison to do so, issuing several directives that were to be addressed by July 22, 2014.

In imposing the fine in mid-December, the Commission noted that Howison had failed to address most of the problems that the Commission had ordered Howison to correct over six months ago. Among the KCC's reasons for imposing the

fine were Howison's failure to install a second chlorinator, which KDHE had recommended to resolve recurring chlorination problems; failure to meet filing deadlines; faxing required filings to the Commission Staff rather than filing them with the Commission itself; and failure to implement the recommendations in the report of an engineer who had assessed the utility's condition.

At the open meeting during which the decision was made to fine Howison, Commissioner Emler expressed his deep concern for Howison's customers, who, in his estimation, "have been hosed" by the utility, and proposed that Howison pay the \$1000 penalty back to his customers through refunds. The Commission adopted his recommendation. Emler noted his willingness to impose stiffer fines—perhaps as much as \$25,000—if the \$1000 penalty did not spur Howison to immediately start correcting the problems that had not been resolved.

It's not clear when the refund will be made, and whether it will be distributed to customers on a per capita basis (i.e. 1/62 of \$1000 to each customer) or whether it will be distributed volumetrically (more to big users, less to small users).

However, it is clear that the Commission's patience with Howison has been exhausted. We hope that the utility responds to the KCC's concerns and takes care of the remaining problems.

KCC Docket No. 13-HHIW-460-GIV

Empire seeks temporary surcharge to pay for environmental upgrades

On December 5, 2014, Empire District Electric Company filed an application seeking approval to implement a temporary environmental surcharge to begin recovering the cost of upgrades to its Asbury coal plant. According to Empire, the upgrades are necessary to meet the Mercury and Air Toxics Standards (MATS) and the Clean Air Interstate Rule (CAIR) air quality regulations. The Asbury project is scheduled to be completed in February 2015, with a total cost of approximately \$112 million. Empire estimates that the surcharge will cost a typical residential customer using 1000 kilowatt hours about \$3.67 a month.

Empire is scheduled to file a rate case in 2016 to recover the cost of a new generation unit the company is adding to its Riverton, Kansas generating facilities. Without the temporary surcharge proposed in this application, Empire argues that it would have to file a full base rate case this year to recover the Asbury costs, and then another full base rate case next year to recover the Riverton costs. Empire's customers ultimately pay for the cost of reviewing Empire's rate case applications, so having two back-to-back rate cases would be expensive.

Empire proposes to use the temporary surcharge to begin recovering its Asbury costs. The Commission can defer all questions about Empire's decision to retrofit Asbury—rather than mothball it or convert it to burn natural gas—until Empire files its Riverton case next year. The Asbury surcharge would remain on customer bills until the Riverton case is concluded. The surcharge is intended only to provide temporary relief while deferring a full rate case review until 2016.

As a policy matter, CURB usually opposes these types of surcharges. However, Empire serves fewer than 10,000 customers in southeast Kansas. Without the surcharge, these customers would be saddled with bearing the cost of two full rate cases in two years. Under these circumstances, CURB believes it makes sense to allow the temporary surcharge for one year, because it will alleviate the need for one of the rate cases. That said, CURB is reviewing the filing, and will take a final position in this docket at a later date.

KCC Docket No. 15-EPDE-233-TAR

Call 211
for information about
obtaining assistance with
utility bills from agencies
and programs associated
with the United Way in
Kansas.

Farewell to Tom Day and Dana Bradbury

Two consummate professionals have left their positions at the KCC, taking with them nearly a half century of institutional knowledge and expertise.

Dana Bradbury had seventeen years with the Commission as an attorney, in addition to a few years in private practice representing telecom companies. In recent years, she served in leadership positions as head of Litigation and as General Counsel to the Commission.

Dana guided the Commission through some difficult years, and was the last attorney on Staff who had participated in watershed cases like the investigation that interrupted the proposed sale of Western Resources' generation assets that would have allowed the CEO to strip the utility of all of its equity, the endless stream of rancorous litigation in the ad valorem dockets and the contentious docket that eventually approved the sale of Aquila's utility assets. These were big cases, with big consequences, cases that served to remind regulatory attorneys that their jobs really are important and that their efforts really do make a difference in the lives of our fellow Kansans.

We're certain Dana remembers how frigid weather in the early winter of 2001-02 combined with record-high natural gas prices to give regulators and legislators perhaps the major challenge of their careers as

they struggled to find ways to assist the many Kansans who could not afford their heating bills. That winter is hard to forget for those of us who went through it.

Tom Day surely remembers those years, too. He began with the Commission 27 years ago as an administrative assistant, and served in several positions over the years. Tom was the man to go to for sage legislative advice or the historical context of some arcane KCC rule, but also the source for such sundry items as ID cards and building services. He presided over the Docket Room for over a decade, but also played sideline roles as a security guard and wrangler of remodeling crews. His final role with the Commission was as Acting Executive Director. He was perhaps the only Executive Director who ever filled in for the receptionist.

But Tom's real talent shone in his role as the KCC's liaison with the legislature. His departure to take a role in managing the legislature's business is a natural for him.

Dana and Tom take with them a wealth of institutional knowledge that can't be replaced. It takes a long time to master the intricacies of utility regulation, to navigate the sometimes uncomfortable influences that politics bring to bear on the agency, and to bring some continuity to an institution that must function even though it is ruled by transient leaders who usually arrive without a clue of what they are getting into, and often only begin to

exhibit some true understanding right before their terms expire.

Dana and Tom gave the kind of stability to the KCC that it needs, especially during crises. Yes, newer employees will step up into their roles, and the KCC will survive; time marches on. But we reluctantly say goodbye to these two especially, who represented the best and the brightest of those who have served the Commission and the people of Kansas.

The board and the staff of CURB wish them both the best of luck in their future endeavors.

Westar eliminates credit card fees

Westar Energy has received approval from the Commission to cease charging customers for utilizing credit cards and debit cards to pay their bills.

Westar also received approval to limit the fees charged to commercial customers for using credit and debit cards to the actual costs of the transactions.

It's been a longstanding policy that customers who use more conventional methods to pay their bills that do not generate transaction fees should not be required to subsidize the costs created by customers who utilize bank-issued cards to pay their bills. Typically, such transactions cost the merchant—in this case, Westar—a transaction fee, which varies in amount among card companies. In Westar's case, the fee of \$3.50 was settled upon as an average

of the typical transaction cost.

Westar's application argued that using credit and debit cards to pay bills is now much more common than it was when the fees were originally approved. Westar also explained that commercial customers generate the highest transaction costs by using credit cards, and that the \$3.50 fee really wasn't covering the costs for many of their transactions.

To mitigate the costs of socializing the residential customers' transaction fees over all residential customers, Westar has negotiated more favorable fees for these transactions. Commercial customers will continue to pay transaction fees, but they'll be lower under the new price structure that Westar negotiated with most of the major credit cards, and will be limited to the actual cost of each transaction.

Westar also noted that KCPL, another large electric utility in Kansas, does not charge credit card fees and approval of its application would place Westar in a similar posture by recovering much of its transaction costs through base rates rather than fees.

In response to a proposal of the Commission Staff, the Commission conditioned its approval of Westar's application to limiting Westar's recovery of transaction costs for credit and debit cards to an amount in line with other payment method costs and other utilities' credit card programs.

KCC Docket No. 14-WSEE-589-TAR

Westar switches vendors for Project Deserve

Westar Energy has received permission to place the operation of its Project Deserve program into the hands of a new operator. Project Deserve is a program that provides financial assistance to elderly and low-income customers.

The Kansas chapter of the American Red Cross has operated Project Deserve since 1982. ARC no longer wants the job, so Westar needs to find a new operator for the program.

Normally, a utility could simply select another vendor to operate a program, but at least two Commission orders directed donations to the program over the years and identified the ARC as the administrator authorized to distribute those funds. Since some of the money from these donations is still on the program's books, Westar could not appoint another vendor to operate the program without authorization from the Commission to utilize another vendor other than the ARC.

CURB and the Commission Staff both agreed that Westar should be permitted to select another vendor.

On December 16, 2014, the Commission approved Westar's request. Westar indicates that it has selected the Center of Hope, based in Wichita, to replace the ARC. The change shouldn't affect any customers requesting help from Project Deserve.

KCC Docket No. 15-WSEE-188-MIS

Black Hills' purchase of KTA gas system on hold

In July 2014, Black Hills Energy filed an application with the Commission to purchase a small natural gas utility system that is owned by and serves the Kansas Turnpike Authority. The system is simply a series of taps on lines originally owned by an oil and gas developer, and provides natural gas to rest area facilities along the turnpike—and to a sole residential customer who is served by one of the farm taps.

The purchase was put on hold when the parties realized that the KTA, as a state agency, must offer the property in an open bidding process. Although the KTA had informally offered the system for sale and had only one taker—Black Hills—KTA must go through the formal bidding process to comply with state law.

In this docket, Black Hills sought permission from the Commission to operate the KTA system pending its sale.

On December 11, 2014, the Commission approved Black Hills' request.

KCC Docket No. 15-BHCG-105-CON



KGS donates \$1.2m to low-income weatherization

In August last year, Kansas Gas Service, a division of its parent company, ONEOK, announced that its name was changing to ONE Gas and that KGS and the other regulated natural gas utilities owned by its parent company were going to be reorganized into a separate corporation from ONEOK's non-regulated businesses.

The negotiations leading to approval of the transaction resulted in the agreement that KGS would donate \$1.2 million to a non-profit organization to provide weatherization assistance to low-income customers of KGS. In December 2014, the Commission approved the stipulation and agreement to allow the corporate changes at KGS to go forward, and ordered KGS to file a notice with the KCC once the reorganization of ONEOK was complete that it had selected a recipient of the donation.

Last month, KGS filed a notice with the Commission that it has selected the Kansas Housing Resources Corporation (KHRC) to receive the donation. KHRC is a not-for-profit subsidiary of the Kansas Development Finance Authority, which is operated by the State of Kansas. KHRC has been offering low-income weatherization programs in many Kansas communities for over a decade, and was a logical choice to receive the donation.

We applaud KGS for its decision to select KHRC to receive the \$1.2 million. We hope that the donation helps ease the pain of natural gas bills for KGS customers who otherwise could not afford to weatherize their homes. They are also likely to enjoy reduced cooling bills, as well, which doubles the benefit to those whose homes are weatherized.

KCC Docket No. 14-KGSG-100-MIS

So. Pioneer seeks reconsideration on denial of costs

As we related in the last issue of CURBside, the Commission ruled in July in Southern Pioneer's rate case that the company could not include certain expenses in customer rates, including some of its advertising costs, donations and dues paid to various organizations. CURB had advocated for denying all of the costs at issue, but Staff recommended allowing some of them to be recovered. The Commission adopted the Staff's adjustment.

Southern Pioneer filed a petition for reconsideration on August 18, arguing that the KCC's decision to deny recovery of any of the costs at issue was arbitrary and capricious, and not based on substantial competent evidence, in light of the record as a whole.

Interestingly, the company also argued that it should be allowed to dismantle the Consumer Advisory Council that was created to give Southern

Pioneer's customers some input into executive decisions at Southern Pioneer, a non-profit corporation owned by a non-profit utility cooperative. The petition reasoned that if the Commission is going to ignore the decisions of the Council (which approved the expenditures at issue), then it serves no purpose and should be abolished.

CURB notes that the Consumer Advisory Council does not preapprove expenditures or make Southern Pioneer's decisions about charitable donations. The Council is asked to endorse the company's decisions on expenditures well after they were made. Further, the Council does not conduct the kind of thorough audit of the company's costs that CURB and Staff conducted. The Council may not have been apprised that the expenses they approved included the costs of promotional items like lollipops, t-shirts and color-changing tailgate cups, or that dues paid to utility organizations also fund lobbying activities that serve the interests of utilities, often to the detriment to customers' interests. Does the Council really endorse the idea that such discretionary expenditures for t-shirts and lollipops should be recovered from the utility's customers?

On September 16, the KCC affirmed its order and denied the company's petition. Southern Pioneer did not file an appeal of the decision with the Court of Appeals.

KCC Docket No. 14-SPEE-507-RTS

Unique agreement establishes schedules for next year's rate cases for Westar, KCPL

Rate cases, as many of you already know, take 240 days to complete. That's the statutory limit of time for a KCC decision on a utility's application for a rate change. As many of you also know, rate applications involve a lot more than just deciding whether the change is warranted. Utilities often propose new policies or unconventional accounting treatments of expenses in conjunction with their request for a rate increase (or, rarely—a decrease) and sometimes provide surprising information that needs to be checked out.

In other words, rate case applications require close scrutiny, and generally consume hundreds of hours of time of Staff's and CURB's experts who audit the application and offer testimony in response to the company's proposals. At some points in the process, working on a rate case is a full-time job that doesn't allow time to work on other dockets.

The year of 2015 will be a very busy year. The project to upgrade the emissions-cleaning equipment at the LaCygne electric generation plant will be completed. The co-owners of LaCygne, Westar Energy and Kansas City Power and Light, want to begin recovery of their immense investments in the project as soon as it comes on

line. In order to start charging rates that begin to recover their investments, both Westar and KCPL would need to file rate case applications at the same time.

This summer, however, Westar Energy, KCPL and Staff proposed to the Commission two procedural schedules for their upcoming rate cases that will assist everyone in staggering key filings and hearing dates, while still allowing both companies to begin recovering the approved increases in a timely manner.

Normally, procedural schedules are negotiated after a utility files its application, and there's only so much room to move when the filing triggers the 240-day clock. The proposition to pre-establish procedural schedules several months prior to the filing of the applications was a new idea—but a good one, too.

Staff and CURB also secured the opportunity to get a head start on looking at some of the data on the LaCygne project before the rate cases are filed.

The Commission approved the parties' proposal on September 9. Although each party had to give up something, the outcome was a win-win for all concerned. For a more detailed discussion of the agreement, please see the August 2014 issue of CURBside.

KCC Docket No. 15-GIME-025-MIS

KCC to review estimate costs of dismantling Wolf Creek

It's time once again for the KCC to review the potential costs of decommissioning the Wolf Creek Nuclear Generating Station near Burlington, Kansas. The owners of Wolf Creek—Westar's Kansas Gas and Electric Company Kansas City Power & Light and the Kansas Electric Power Cooperative, Inc.—are required to update their decommissioning study every three years.

The 2014 study was filed in August with the Commission. The study assumes, as had the previous study, that the final shutdown of the plant would be a scheduled and planned event, and neither caused by or delayed by problems outside of the owners' control.

The study assumes that Wolf Creek would begin the decommissioning process in 2025 when its current operating license expires, and would begin by removing spent fuel from the facility. The study therefore assumes that the federal government will have established an off-site disposal facility for spent nuclear fuel by 2025. That's a stretch—the government has been working on establishing a suitable disposal site for spent nuclear fuel since the

first nuclear plant was built in the U.S., with no discernable progress. Not only is a nuclear waste facility a political hot potato that few communities want nearby, but there are few sites that are suitable for nuclear waste, for a number of reasons.

In the scenario called DECON, the study looks at the potential costs of totally removing or decontaminating the entire site, with the goal of making the site useful for unrestricted use a short time after Wolf Creek ceases operations. This option is estimated to cost \$765 million.

In the scenario called SAFESTOR, the facility is “placed and maintained in a condition that allows the nuclear facility to be safely stored and subsequently decontaminated to levels that permit release for unrestricted use.” Decommissioning is anticipated to take as long as 60 years. This option is estimated to cost \$1.03 billion.

In the ENTOMB scenario, radioactive materials are permanently entombed at the plant site in a material like concrete, and then the facility is maintained and secured until the materials' radioactivity reaches levels that permit unrestricted use of the property, a process to be completed within 60 years. The study notes that facilities that generate more than average

amounts of spent fuel will have difficulty completing the ENTOMB scenario within 60 years, and noted that the Nuclear Regulatory Commission has provisions for extending this scenario's parameters to protect public health and safety. No estimate was provided for this scenario.

Estimated decommissioning costs are recovered in depreciation rates included in customer base rates charged by the owner-utilities—KCPL, Westar and KEPCO. Decommissioning is considered a “legal obligation” of each owner of a nuclear plant. The periodic updates filed with the KCC help ensure that decommissioning costs that are included in electricity rates are reasonable in light of current

estimates. Each generation of customers who are served by the plant contribute revenues that are credited toward the costs of decommissioning.

Leo Haynos and Adam Gatewood of Commission Staff filed testimony in this docket. Haynos warns that some of the scenarios considered may take much longer than projected in the study and to be aware that costs might be higher as a result.

Gatewood noted that while some scenarios may take longer than projected, the longer time frame for completion may permit depreciate rates to keep up with the additional cost. He also agreed with the recommended inflation rate used to make the projections.

After cross-answering and rebuttal testimony are filed in January 2015, the procedural schedule calls for a settlement conference. If no settlement is reached among the parties, the Commission will hold an evidentiary hearing on February 24.

KCC Docket No. 15-WCNE-093-GIE

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